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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,104	10/26/2006	Hai-Wen Chen	4358-0113PUS2	3970
2252	7590	09/17/2009		
BIRCH STEWART KOLASCH & BIRCH			EXAMINER	
PO BOX 747			DO, ANH HONG	
FALLS CHURCH, VA 22040-0747				
			ART UNIT	PAPER NUMBER
			2624	
NOTIFICATION DATE	DELIVERY MODE			
09/17/2009	ELECTRONIC			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/555,104	<b>Applicant(s)</b> CHEN ET AL.
	<b>Examiner</b> ANH H. DO	<b>Art Unit</b> 2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 04 June 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1,3-6 and 8-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 1,3-6 and 17-22 is/are allowed.

6) Claim(s) 8-16 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-166/08)  
Paper No(s)/Mail Date 7/30/2009

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 3-6, and 8-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 8-12 is withdrawn in view of the newly discovered reference(s) to Baker et al. (U.S. Patent No. 4,926,452). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker et al. (U.S. Patent No. 4,926,452).

Regarding claim 8, Baker discloses:

- a module configured to perform at least one of integrating the image data across a plurality of time frames (col. 23, lines 34-35: a camera begins to integrate image data for 3 time frames);

- a threshold module configured to apply thresholding techniques on the image data (col. 29, lines 1-29: using thresholding techniques for comparing the image data to the predetermined threshold value).

Regarding claim 9, Baker teaches at least one sensor configured to sense the scene across the plurality of time frames (col. 9, lines 11-21; at least one sensor 263).

Regarding claim 10, Baker teaches at least one additive fusion (col. 33, lines 36-40: synchronizing two motion image data).

Regarding claim 11, Baker teaches a pre-detection fusion (Fig. 1: detector 30 for pre-detecting fusion).

Regarding claim 12, Baker teaches at least one of a doubled-thresholding technique (col. 29, lines 1-29: repeating a first loop for doubled thresholding).

#### ***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 13-16 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent<sup>1</sup> and recent Federal Circuit decisions<sup>2</sup> indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform

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<sup>1</sup> *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

<sup>2</sup> *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

underlying subject matter (such as an article or material) to a different state or thing.

While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example, the steps of "extracting", "performing" and "determining" of claim 13 are not tied to any particular apparatus, and claim 13 does not transform data to any different state (the step of "extracting at least one feature from the image data" does not transform the image data to different state).

#### ***Allowable Subject Matter***

6. Claims 1, 3-6, 17-22 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 1, the prior art, taken either singly or in combination, does not teach:

- the pre-detection temporal fusion... from the sensor; and the pre-detection spatial fusion... from two different sensors.

Regarding claims 3 and 4, since these claims depend from claim 1, they are also allowable for the same reason.

Regarding claim 5, the prior art, taken either singly or in combination, does not teach:

- fusing the frames of image data... at least one sensor.

Regarding claim 6, since this claim depends from claim 5, it is also allowable for the same reason.

Regarding claim 17, the prior art, taken either singly or in combination, does not teach:

- performing a pre-detection fusion technique on data corresponding to at least one extracted feature from each sensor.

Regarding claims 18-20, since these claims depend from claim 17, they are also allowable for the same reason.

Regarding claim 21, the prior art, taken either singly or in combination, does not teach:

- spatial processing means for fusing the temporally integrated sensor data from said temporal processing means, wherein said spatial processing means detects the target from the spatially fused data and provides an indication corresponding to the detected target.

Regarding claim 22, since this claim depends from claim 21, it is also allowable for the same reason.

#### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH H. DO whose telephone number is 571-272-7433. The examiner can normally be reached on 5/4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BRIAN WERNER can be reached on 571-272-7401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 13, 2009

/ANH H DO/  
Primary Examiner, Art Unit 2624